

§ 21.414

of the same criteria and based on the same facts, are binding upon all other adjudicative activities in the absence of clear and unmistakable error.

(Authority: 38 U.S.C. 512(a))

§ 21.414 Revision of decision.

The revision of a decision on which an action is based is subject to the following regulations:

- (a) Clear and unmistakable error, § 3.105(a);
- (b) Difference of opinion, § 3.105(b);
- (c) Character of discharge, § 3.105(c);
- (d) Severance of service-connection, § 3.105(d);
- (e) Reduction to less than compensable evaluation, § 3.105(e). (See §§ 21.48, 21.322, and 21.324)

(Authority: 38 U.S.C. 5112)

INFORMING THE VETERAN

§ 21.420 Informing the veteran.

(a) *General.* VA will inform a veteran in writing of findings affecting receipt of benefits and services under Chapter 31. This includes veterans:

(1) Requesting benefits and services; or

(2) In receipt of benefits and services.

(b) *Notification.* (1) Each notification should include the decision or finding, the reasons, including fact and law, for the decision, the effective date of the decision or finding; and

(2) The veteran's appeal rights, if any.

(c) *Adverse action.* An adverse action is one, other than an interim action such as a suspension of benefits pending development, which:

(1) Denies Chapter 31 benefits, when such benefits have been requested;

(2) Reduces or otherwise diminishes benefits being received by the veteran; or

(3) Terminates receipt of benefits for reasons other than scheduled interruptions which are a part of the veteran's plan.

(d) *Prior notification of adverse action.* VA shall give the veteran a period of at least 30 days to indicate his or her disagreement with an adverse action other than one which arises as a consequence of a change in training time or other such alteration in cir-

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cumstances. If the veteran disagrees, he or she shall be given the opportunity, before appealing the adverse action as provided in § 21.59 of this part, to:

(1) Meet informally with a representative of VA;

(2) Review the basis for VA decision, including any relevant written documents or material; and

(3) Submit to VA any material which he or she may have relevant to the decision.

(Authority: 38 U.S.C. 3102)

[49 FR 40814, Oct. 18, 1984, as amended at 54 FR 40872, Oct. 4, 1989]

§ 21.422 Reduction in subsistence allowance following the loss of a dependent.

(a) *Notice of reduction required when a veteran loses a dependent.* (1) Except as provided in paragraph (a)(2) of this section, VA will not reduce an award of subsistence allowance following the veteran's loss of a dependent unless:

(i) VA has notified the veteran of the adverse action, and

(ii) VA has provided the veteran with a period of 60 days in which to submit evidence for the purpose of showing that subsistence allowance should not be reduced.

(2) When the reduction is based solely on written, factual, unambiguous information as to dependency provided by the veteran or his or her fiduciary with knowledge or notice that the information would be used to determine the monthly rate of subsistence allowance;

(i) VA is not required to send a pre-reduction notice as stated in paragraph (a)(1) of this section, but;

(ii) VA will send notice contemporaneous with the reduction in subsistence allowance.

(Authority: 38 U.S.C. 5112, 5113)

(b) *Pre-reduction notice.* Where a reduction in subsistence allowance is proposed by reason of information concerning dependency received from a source other than the veteran, VA will:

(1) Prepare a proposal for the reduction of subsistence allowance, setting forth material facts and reasons;

(2) Notify the veteran at his or her latest address of record of the proposed action;